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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,539	01/06/2004	Gregory Sidebottom	0023-0180	3312
44987 7590 04/08/2008 HARRITY SNYDER, LLP 11350 Random Hills Road SUITE 600 FAIRFAX, VA 22030				
EXAMINER				
SOL, ANTHONY M				
ART UNIT		PAPER NUMBER		
2619				
MAIL DATE		DELIVERY MODE		
04/08/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/751,539

Applicant(s)

SIDEBOTTOM ET AL.

Examiner

ANTHONY SOL

Art Unit

2619

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 March 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Wing F Chan/
Supervisory Patent Examiner, Art Unit 2619
4/1/08

Continuation of 11, does NOT place the application in condition for allowance because: The Applicant's arguments have been fully considered but are not persuasive. The Applicant's main argument on pages 14-16 is that Chandrashekhar does not disclose or suggest making a determination of whether an attribute is permitted to be provided by the EU or making a determination of whether an attribute is permitted to be requested for a requested service/application, as would be required by claim 23. Chandrashekhar discloses the following on paras. 34-35 with annotations added emphasizing where the above relevant claim limitations are disclosed:

"[0034]Referring to FIG. 5B, the system 100 processes the AR at step 64. Processing the AR includes comparing the requested services/applications, as tailored by the customization information, with available services/applications and the information contained in the EU and service/application profiles. If no matches are found at step 66 (claimed "making a determination of whether an attribute is permitted to be provided by the EU"), an appropriate message and opportunity to retry are provided at step 68. If the EU decides not to retry, the process is halted at step 74. If the EU decides to retry (step 68), the process continues from step 58 (FIG. 5A)."

"[0035] Matches may not be found for any of several reasons, such as the requested service/application is not available at the requested time, resolution, etc. A match may not be found if the EU customer premises equipment (CPE), such as modem type or descrambler are not compatible with the requested service/application. The system 100 also compares the AR with the CPE profile stored in the CRM portion 14 and/or the SCM portion 16. If the requested service/application cannot be fulfilled with the existing CPE setup (as indicated in the CPE profile)(claimed "making a determination of whether an attribute is permitted to be requested for a requested service/application"), the system 100 provides the necessary feedback to the EU. The EU then has the option to subscribe to a new service in accordance with the feedback information. It is advantageous if the requested services/applications are compatible with the EU's CPE capabilities. For example, if the EU chooses a 384 Kbps Internet access and has only a V.90 modem, the 384 Kbps type services and/or grade of service requested will not work on a V.90 modem. In an attempt to avoid these types of conflicts, the system 100 provides the appropriate CPE requirements to the EU. The EU may then determine if she has the appropriate equipment before requesting a service/application."

In summary, Chandrashekhar's disclosure that "[i]f no matches are found at step 66" meets the limitation of claimed "making a determination of whether an attribute is permitted to be provided by the EU" and disclosure of "[i]f the requested service/application cannot be fulfilled with the existing CPE setup (as indicated in the CPE profile) meets the limitation of claimed "making a determination of whether an attribute is permitted to be requested for a requested service/application".